

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MARY L. ROARK,)	
)	
Plaintiff,)	
)	
vs.)	No. 4:07CV2067 HEA
)	
MICHAEL J. ASTRUE, Commissioner)	
of Social Security,)	
)	
Defendant.)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on Judge Terry I. Adelman's Report and Recommendation that Defendant's Motion to Dismiss, [Doc. No. 7], be granted. Plaintiff has filed written objections to the Recommendation. The Court has reviewed the Motion, the opposition thereto and the Objections. Judge Adelman provides a very thorough analysis of the issues and case law. The Court agrees that equitable tolling of the limitation period for filing an action in this Court should be limited. However, in light of the affidavits provided by Plaintiff and her attorney, the Court is of the opinion that Plaintiff should be allowed to proceed, particularly considering the notion that suits should, if possible, be resolved on the merits.

Accordingly,

IT IS ORDERED that Defendant's Motion to Dismiss, [Doc. No. 7] is denied.

IT IS FURTHER ORDERED that this matter is again referred to Judge Adelman for further proceedings.

IT IS FURTHER ORDERED that Defendant shall file a responsive pleading within 60 days from the date of this Order. Along with its answer, Defendant shall file a transcript of the record, in accordance with 42 U.S.C. § 405(g).

IT IS FURTHER ORDERED that the time limitations contained in the Case Management Order entered on December 27, 2007 shall otherwise apply.

Dated this 8th day of October, 2009.

A handwritten signature in cursive script, reading "Henry Edward Autrey", is positioned above a horizontal line.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE